

§ 2.753

days after discovery has been completed,¹ or such other time as the Commission or the presiding officer may specify.

(b) Prehearing conferences may be stenographically reported.

(c) The presiding officer shall enter an order which recites the action taken at the conference, the amendments allowed to the pleadings and agreements by the parties, and which limits the issues or defines the matters in controversy to be determined in the proceeding. Objections to the order may be filed by a party within five (5) days after service of the order, except that the regulatory staff may file objections to such order within ten (10) days after service. Parties may not file replies to the objections unless the board so directs. The filing of objections shall not stay the decision unless the presiding officer so orders. The board may revise the order in the light of the objections presented and, as permitted by § 2.718(i) may certify for determination to the Commission such matters raised in the objections as it deems appropriate. The order shall control the subsequent course of the proceeding unless modified for good cause.

[27 FR 377, Jan. 13, 1962, as amended at 37 FR 15136, July 28, 1972; 40 FR 8777, Mar. 3, 1975; 46 FR 30331, June 8, 1981]

§ 2.753 Stipulations.

Apart from any stipulations made during or as a result of a prehearing conference, the parties may stipulate in writing at any stage of the proceeding or orally during the hearing, any relevant fact or the contents or authenticity of any document. Such a stipulation may be received in evidence. The parties may also stipulate as to the procedure to be followed in the proceeding. Such stipulations may, on motion of all parties, be recognized

¹Discovery, as used in this section, does not include the production of the ACRS report, the safety evaluation prepared by the regulatory staff, or any detailed statement on environmental considerations prepared by the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate or his designee in the proceeding pursuant to part 51 of this chapter.

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by the presiding officer to govern the conduct of the proceeding.

[37 FR 15136, July 28, 1972]

§ 2.754 Proposed findings and conclusions.

(a) Any party to a proceeding may, or if directed by the presiding officer shall, file proposed findings of fact and conclusions of law, briefs and a proposed form or order of decision within the time provided by the following subparagraphs, except as otherwise ordered by the presiding officer:

(1) The party who has the burden of proof shall, within thirty (30) days after the record is closed, file proposed findings of fact and conclusions of law and briefs, and a proposed form of order or decision.

(2) Other parties may file proposed findings, conclusions of law and briefs within forty (40) days after the record is closed. However, the staff may file such proposed findings, conclusions of law and briefs within fifty (50) days after the record is closed.

(3) A party who has the burden of proof may reply within five (5) days after filing of proposed findings and conclusions of law and briefs by other parties.

(b) Failure to file proposed findings of fact, conclusions of law or briefs when directed to do so may be deemed a default, and an order or initial decision may be entered accordingly.

(c) Proposed findings of fact must be clearly and concisely set forth in numbered paragraphs and must be confined to the material issues of fact presented on the record, with exact citations to the transcript of record and exhibits in support of each proposed finding. Proposed conclusions of law must be set forth in numbered paragraphs as to all material issues of law or discretion presented on the record. An intervenor's proposed findings of fact and conclusions of law must be confined to issues which that party placed in controversy or sought to place in controversy in the proceeding.

[27 FR 377, Jan. 13, 1962, as amended at 28 FR 10154, Sept. 17, 1963; 35 FR 11459, July 17, 1970; 43 FR 17802, Apr. 26, 1978; 46 FR 30331, June 8, 1981; 54 FR 33182, Aug. 11, 1989]